

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

RECEIVED

JUN 13 1997

In the Matter of

Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

)
)
)
)
)

MM Docket No. 87-268

Federal Communications Commission
Office of Secretary

DOCKET FILE COPY ORIGINAL

To: The Commission

PETITION FOR RECONSIDERATION

WXXI Public Broadcasting Council ("WXXI"), through its attorneys and pursuant to Section 1.106 of the Commission's rules, hereby files this Petition for Reconsideration in response to the Commission's Sixth Report and Order, released April 21, 1997 in the above-captioned proceeding which introduced the Digital Table of Allotments and related technical rules governing digital broadcast service. In support thereof the following is shown:

1. WXXI is licensee of public Station WXXI-TV, Rochester, New York, and provides a broad range of instructional, educational, and cultural programming services for the Rochester metropolitan area. For many years, WXXI has provided a broad range of quality programming including news, public and cultural affairs and classical music to its audience. Through these efforts, WXXI has achieved a reputation for broad based community service and has developed the expertise to operate public telecommunications facilities in the public interest.

2. As a preliminary matter, WXXI submits that the complexity of DTV allotments, the lack of essential technical information, and the short time frame available to file petitions for reconsideration of the DTV Table make it impossible to analyze current digital assignments and explore acceptable alternatives. WXXI has found that the

No. of Copies rec'd
ESTAB CODE

024

consulting engineering community cannot gear up to run the massive DTV computer program during this 30-day window for seeking reconsideration. In addition, OET Bulletin No. 69, setting forth interference criteria, has not yet been released. Engineers cannot fully evaluate problems with the current allotments and propose feasible solutions without full technical information, including in particular OET Bulletin No. 69. In short, the television licensee community cannot adequately analyze the Commission's complex proposal in time to offer concrete options. However, WXXI can identify its preliminary concerns.

3. The conversion to digital broadcast service is a complex process and broadcasters should be afforded the time to analyze their DTV assignments as well as DTV allotments in their areas and investigate alternatives which will enable them to best serve their public. Accordingly, and consistent with the request of the Broadcasters' Caucus Petition filed today, WXXI requests that the Commission permit it to supplement this pleading with technical data within 90 days from the release of OET Bulletin No. 69. This supplemental filing period would allow WXXI to work with its consulting engineers to further develop feasible solutions if necessary. This is clearly preferable to forcing prospective digital licensees to move forward without current and accurate information and submit proposals which turn out to be technically infeasible. That course would waste public time and money, and perhaps, delay the roll-out of digital broadcast service.

4. WXXI has carefully reviewed the Commission's above-referenced Sixth Report and Order on DTV. WXXI commends the Commission for the substantial work reflected in the Table and its recognition of the unique difficulties facing public television stations. Although WXXI strongly endorses the positions advanced in the Joint Petition

for Reconsideration and Clarification (Petition) filed by the Association of America's Public Television Stations (APTS) and the Public Broadcasting Service (PBS), it would like to place additional emphasis on issues of particular concern to WXXI: allotment of a DTV channel to WXXI which allows for adequate service to the public and protection of pending applications on reserved channels.

5. The Commission has proposed DTV Channel 16 for WXXI. This channel will result in a substantial degradation of the service currently provided by the licensee on its NTSC Channel 21, and in particular fails to achieve the improvement in coverage planned by WXXI when it filed its application for modification of Station WXXI-TV (FCC File No. BPET960205KE). As noted above, WXXI has had no realistic opportunity to explore alternatives which might at least preserve existing and planned levels of service. In addition, on February 28, 1996 WXXI filed a construction permit application for a new public television station on Channel *61 at Rochester, New York to serve the Rochester metropolitan area and its surrounding environs (FCC File No. BPET960228KF). The purpose of the proposed station is to extend and improve the educational, cultural, and informational programming services currently available to the 450,000 households and 1,500,000 residents. This application is pending.

6. The Commission's decision indicates that all vacant NTSC allotments subject to pending construction applications filed by September 20, 1996, have been protected for DTV purposes. However, it has provided no official confirmation of protection of the Channel *61 allotment with an in-core DTV allotment. Further, WXXI is vitally concerned that the Commission's high priority on recovering spectrum occupied by Channels 60 to 69 may preclude a grant of its application for a station at Channel 61. Under these circumstances, confirmation of the availability of an in-core DTV channel is

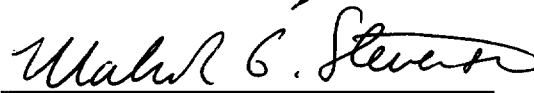
essential to the interests of public broadcasters like WXXI.¹ If, however, the Commission does not assign a substitute channel, WXXI requests, consistent with the APTS/PBS Petition, that the Commission give applicants with pending construction applications a preference to apply for new allotments and not subject their applications for DTV stations to competing applications.

WHEREFORE, for the foregoing reasons, WXXI respectfully urges the Commission to grant reconsideration consistent with the views expressed herein.

Respectfully submitted,

WXXI PUBLIC BROADCASTING COUNCIL

By: 
Steven C. Schaffer

By: 
Malcolm G. Stevenson

SCHWARTZ, WOODS & MILLER
1350 Connecticut Avenue, N.W.
Suite 300
Washington, D.C. 20036
202/833-1700

Its Attorneys

June 13, 1997

¹ In this connection, the Commission has variously described core spectrum as Channels 7-51 or Channels 2-46 (Sixth Report and Order, supra, paras. 2-84). By core spectrum, WXXI means assignments between Channels 7 and 46, which will allow public television stations to be in the core irrespective of which core the Commission selects, as proposed today by APTS and PBS in their Petition. The assignment of non-core channels to public television stations significantly increases the financial risks for these stations and could well have adverse effects upon both the ability and the timing of conversion to DTV. The Commission should make every effort to provide public television stations with assignments between Channels 7 and 46 to afford public television stations the assurances they need to plan for and raise the funds required for DTV conversion.